

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION

JM TEXAS COMPANIES, L.L.C., AND
EAGLE RAILCAR SERVICES-WICHITA
FALLS, TEXAS, L.L.C.,

Plaintiffs,

V.

ALTERRA AMERICA INSURANCE
COMPANY,

Defendant.

CIVIL ACTION NO. 7:17-cv-00146

DEFENDANT'S NOTICE OF REMOVAL

Defendant Alterra America Insurance Company (“AAIC”) files this Notice of Removal under 28 U.S.C. § 1446(a) and states as follows:

I. INTRODUCTION

1. Plaintiffs, JM Texas Companies, L.L.C., and Eagle Railcar Services-Wichita Falls, Texas, L.L.C (“Plaintiffs”), commenced this lawsuit on August 31, 2017, by filing Plaintiffs’ Original Petition (“Petition”), in the 89th Judicial District Court of Wichita County, Texas; Cause No. 186,971-C.

2. AAIC files this Notice of Removal within the 30-day time-period required by 28 U.S.C. § 1446(b).

II.
BASIS FOR REMOVAL

3. Venue is proper in this district under 28 U.S.C. § 1441(a) because the state court where the action is pending is located in this district.

4. Removal is proper under 28 U.S.C. § 1332(a) if there is complete diversity between the parties and the amount in controversy exceeds \$75,000, exclusive of interest, costs and attorneys' fees. These two conditions are satisfied in this matter.

A. Removal is Proper Because Complete Diversity of Citizenship Exists Between Plaintiffs and AAIC.

5. Plaintiff JM Texas Companies, L.L.C. ("JM Texas") was at the time this lawsuit was filed, and at the date of this Notice remains, a Texas corporation with its principal place of business in Eastland, Texas. Accordingly, Plaintiff JM Texas is a citizen of the state of Texas for purposes of diversity of citizenship.

6. Plaintiff Eagle Railcar Services-Wichita Falls, Texas, L.L.C. ("Eagle Railcar") was at the time this lawsuit was filed, and at the date of this Notice remains, a Texas corporation with its principal place of business in Eastland, Texas. Accordingly, Plaintiff Eagle Railcar is a citizen of the state of Texas for purposes of diversity of citizenship.

7. Defendant AAIC was at the time this lawsuit was filed, and at the date of this Notice remains, a Delaware corporation with its principal place of business in Glen Allen, Virginia. Thus, AAIC is a citizen of the states of Delaware and Virginia for purposes of diversity of citizenship.

8. Because Plaintiff JM Texas and Plaintiff Eagle Railcar are both citizens of Texas and AAIC is a citizen of Delaware and Virginia, complete diversity of citizenship exists between AAIC and Plaintiffs (now and on the date Plaintiffs filed this lawsuit).

B. Removal is Proper Because Plaintiffs' Claimed Damages Exceed This Court's Jurisdictional Threshold of \$75,000.

9. If it is facially apparent that Plaintiffs' claims in this suit exceed \$75,000, exclusive of interest, costs, and attorney's fees, AAIC has satisfied its burden to establish that the amount in controversy exceeds this Court's jurisdictional threshold.¹

10. Here, Plaintiffs' Original Petition states that Plaintiffs seeks to recover more than \$1,000,000 in this lawsuit.² It is thus facially apparent that Plaintiffs' claims exceed this Court's jurisdictional threshold of \$75,000.

III.
CONCLUSION

11. Because there is complete diversity between the parties and the amount in controversy exceeds \$75,000 (excluding interest, costs, and attorneys' fees), removal of this action is proper under 28 U.S.C. § 1332(a).

12. Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of this Notice will be filed with the clerk of the District Clerk of Wichita County, Texas promptly after the filing of this Notice.

13. As required by 28 U.S.C. § 1446(a), and Local Rule 81.1, a copy of each of the following are attached to (or filed with) this Notice:

- a. an index of all documents attached to (or filed with) this Notice that clearly identifies each such document and indicates the date the document was filed in state court (if applicable);
- b. a copy of the docket sheet in the state court action;
- c. each document filed in the state court action (as separate attachments arranged in chronological order according to state court filing date); and

¹ *Allen v. R&H Oil & Gas Co.*, 63 F.3d 1326, 1335 (5th Cir. 1999).

² *See* Plaintiffs' Original Petition at § I.

d. a separately signed certificate of interested persons that complies with Local Rule 3.1(c).

14. Pursuant to 28 U.S.C. § 1446(d), written notice of filing of this Notice will be given to all adverse parties promptly after the filing of this Notice.

WHEREFORE, Defendant Alterra America Insurance Company requests that this action be removed from the 89th Judicial District Court of Wichita County, Texas, to the United States District Court for the Northern District of Texas, Wichita Falls Division, and that this Court enter such further orders as may be necessary and appropriate.

Respectfully submitted,

ZELLE LLP

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**ATTORNEYS FOR DEFENDANT ALTERRA
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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Notice of Removal was served on all counsel of record on October 4, 2017, in accordance with the Federal Rules of Civil Procedure, as follows:

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